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13 UNITED STATES DISTRICT COURT  
14 CENTRAL DISTRICT OF CALIFORNIA  
15 WESTERN DIVISION

16 Darin Stoytchev,

17 Plaintiff,

18 vs.

19 T-Mobile USA, Inc.,

20 Defendant.

Case No.: 2:12-cv-09927-SH

**FIRST AMENDED COMPLAINT FOR  
DAMAGES FOR VIOLATIONS OF  
THE TELEPHONE CONSUMER  
PROTECTION ACT –  
47 U.S.C. § 227, ET. SEQ.**

**JURY TRIAL DEMANDED**

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**FIRST AMENDED COMPLAINT FOR  
DAMAGES**

FILED  
2013 JAN 14 AM 11:37  
CLERK U.S. DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
LOS ANGELES  
BY [Signature]

1 Pursuant to Fed. R. Civ. P. 15(a)(1)(B), Plaintiff, Darin Stoytchev, by  
2 undersigned counsel, submits his First Amended Complaint as follows:  
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4 **JURISDICTION**

5 1. This action arises out of Defendant's repeated violations of the  
6 Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* (the "TCPA").  
7

8 2. This Court has original jurisdiction over Plaintiff's TCPA claims. *Mims*  
9 *v. Arrow Fin. Serv., LLC*, 132 S.Ct. 740 (2012).

10 3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that  
11 Defendant transacts business in this District and a substantial portion of the acts  
12 giving rise to this action occurred here.  
13

14 **PARTIES**

15 4. The Plaintiff, Darin Stoytchev (hereafter "Plaintiff"), is an adult  
16 individual residing in Santa Monica, California. Plaintiff is a "person" as defined by  
17 47 U.S.C. § 153(10).  
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19 5. The Defendant, T-Mobile USA, Inc., (hereafter "T-Mobile" or  
20 "Defendant"), is a corporation with a principal place of business at 12920 Se 38th  
21 Street, Bellevue, Washington 98006 and is a "person" as defined by 47 U.S.C. §  
22 153(10).  
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**ALLEGATIONS APPLICABLE TO ALL COUNTS**

6. In or around August 2012, Defendant began calling Plaintiff's cellular phone 2 to 3 times on a daily basis in an attempt to reach a person named "Rodney."

7. Defendant contacted Plaintiff's cellular telephone number, 310-663-0318, using an automated telephone dialer system and using an artificial or prerecorded voice.

8. Plaintiff has no prior business relationship with Defendant and never provided Defendant with his telephone number or contact information.

9. Plaintiff never requested to Defendant either by agreement or otherwise that he be contacted.

10. The calls to Plaintiff were not made for emergency purposes.

11. T-Mobile is not a tax exempt charitable organization.

12. On several occasions, Plaintiff returned the calls to T-Mobile and informed T-Mobile that he did not know Rodney and that Rodney could not be reached at Plaintiff's phone number, and further instructed T-Mobile to remove his telephone number and cease all communications with him.

13. Despite Plaintiff's repeated requests to T-Mobile cease all calls to Plaintiff and knowing that the person it was trying to reach could not be reached on Plaintiff's telephone number, T-Mobile continued to place calls to Plaintiff's cellular telephone.

1           14. When Plaintiff did not answer the calls, Defendant left automated  
2 prerecorded messages on Plaintiff's voicemail.  
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5                                   **COUNT I**  
6                   **VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT –**  
7                                   **47 U.S.C. § 227, ET. SEQ.**

8           15. The Plaintiff incorporates by reference all of the above paragraphs of this  
9 Complaint as though fully stated herein.

10           16. Without prior express consent the Defendant contacted the Plaintiff by  
11 using an automated telephone dialing system and using prerecorded messages on his  
12 cellular telephone in violation of 47 U.S.C. § 227(b)(1)(A)(iii).  
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14           17. The foregoing acts and omissions of the Defendant constitute negligent  
15 and/or willful and knowing violations of the Telephone Consumer Protection Act.

16           18. The Plaintiff is entitled to damages as a result of the Defendant's  
17 violations.  
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19                                   **PRAYER FOR RELIEF**

20           WHEREFORE, the Plaintiff prays that judgment be entered against the named  
21 Defendant, jointly and severally:  
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23                   A. Statutory damages of \$500.00 for each and every call in negligent violation  
24 of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B);  
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1 B. Statutory damages of \$1,500.00 for each and every call made in knowing  
2 and/or willful violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(C);  
3  
4 and

5 C. Such other relief as the Court deems just and proper:

6 **TRIAL BY JURY DEMANDED ON ALL COUNTS**  
7

8 DATED: January 14, 2013

TAMMY HUSSIN

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11 By: /s/ Tammy Hussin  
12 Tammy Hussin, Esq.  
13 Lemberg & Associates, LLC  
14 Attorney for Plaintiff, Darin Stoytchev  
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